

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

**MISSOURI PROTECTION &
ADVOCACY SERVICES, et al.,,**)

Plaintiffs,)

v.)

JOHN R. ASHCROFT, et al.,)

Defendants.)

Case No. 2:22-cv-04097-RK

DEFENDANTS' JOINT MOTION TO STAY PROCEEDINGS

Defendants Missouri Secretary of State John R. Ashcroft, Kansas City Board of Election Commissioners, St. Louis County Board of Elections, and Boone County Clerk Brianna Lennon, jointly move this Court to stay these proceedings pending the United States Court of Appeals for the Eighth Circuit's resolution of *Arkansas United v. Thurston* (No. 22-2918). In support of this Motion, the parties state:

1. On October 12, 2022, this Court issued a docket entry [Doc. 50] requesting that the parties provide their position on whether this case should be stayed pending the Eighth Circuit's resolution of *Arkansas United v. Thurston* (No. 22-2918).

2. After conferring, the parties to this Motion believe that a stay is warranted.

3. The *Thurston* case involves a challenge under the federal Voting Rights Act to an Arkansas statute governing the provision of assistance to voters. The U.S. District Court for the Western District of Arkansas issued an order on September 30, 2022, that addressed the merits of the case on summary judgment, as well as issues about standing, ripeness, and immunity. *See Arkansas United v. Thurston*, No. 5:20-cv-5193, 2022 WL 3584626 (W.D. Ark. Aug. 19, 2022). As these issues have already been raised or are

anticipated to be likely raised in this case, the parties and this Court would benefit from the Eighth Circuit's opinion analyzing these issues.

4. The Eighth Circuit's opinion will provide guidance to the parties on the best way to proceed forward with the litigation of this case, including what would be relevant discovery, the appropriate legal standards governing the challenged law, and party standing issues. This Court's ultimate disposition of this case will also benefit from a recent, relevant opinion from a higher court.

5. In addition, a stay will not prejudice any of the parties to this litigation. Plaintiffs have not sought immediate or preliminary injunctive relief in advance of the November 2022 election. The next elections in Missouri featuring candidates on the ballot are not until March 2023 (for charter cities and counties) and April 2023 (general municipal elections). Given that Plaintiffs have not moved for immediate or preliminary injunctive relief before a major upcoming federal election or identified injuries associated with that election, and because the *Thurston* case is likely to be fully briefed and potentially decided before the Spring 2023 local elections, no plaintiff would be prejudiced by a stay until the Eighth Circuit issues its opinion in *Thurston*.

6. The parties agree that all deadlines in this case in the current scheduling order [Doc. 26], including all discovery deadlines and obligations to respond to pending discovery requests, should be stayed if this Court grants this stay request.

7. If this Court grants a stay, the parties to this Motion ask that responses to pending discovery requests be due 30 days after the stay is lifted by the Court.

8. The parties to this Motion will notify this Court when the Eighth Circuit has issued its opinion in *Thurston* and propose a new scheduling order. If desired by the

Court, the parties will submit supplemental briefing regarding *Thurston*'s effect once that case has been finally adjudicated.

WHEREFORE, Defendants Missouri Secretary of State John R. Ashcroft, Kansas City Board of Election Commissioners, St. Louis County Board of Elections, and Boone County Clerk Brianna Lennon, request that the Court stay these proceedings and all deadlines in the current scheduling order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of October 2022, I electronically filed the foregoing with the Clerk of the Court using the Court's CM/ECF system, which sent notification to all counsel of record.

/s/ Jason K. Lewis